

Gerry Fagan
Adam Tunning
MOULTON BELLINGHAM PC
27 North 27th Street, Suite 1900
P. O. Box 2559
Billings, Montana 59103-2559
Telephone: (406) 248-7731
Gerry.Fagan@moultonbellingham.com
Adam.Tunning@moultonbellingham.com

Attorneys for Defendant Sedgwick Claim Management, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JASON LEWIS,

Plaintiff,

-vs-

OLD REPUBLIC INS. CO., and
SEDGWICK CLAIM MANAGEMENT
INC.,

Defendants.

Cause No.

**DEFENDANT SEDGWICK
CLAIM MANAGEMENT,
INC.'S NOTICE OF
REMOVAL**

Defendant Sedgwick Claims Management, Inc. (“Sedgwick”) gives notice of removal of the above-captioned case to the United States District Court for the District of Montana, Missoula Division pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Fed.R.Civ.P. 81(c), and Local Federal Rule 3.3.

In support of this removal, Sedgwick states as follows:

1. On May 18, 2022, Plaintiff Jason Lewis filed an action entitled *Lewis v. Old Republic et al*, Cause No. DV-32-2022-571, Montana Fourth Judicial District, Missoula County.

2. Sedgwick was served on May 22, 2023.

3. This Notice of Removal is being filed within 30 days of service of the Complaint upon Sedgwick pursuant to 28 U.S.C. § 1446(b)(1).

4. Upon information and belief, Defendant Old Republic Ins. Co. has not been served and does not need to join in or consent to this Notice of Removal under 28 U.S.C. § 1446(b)(2)(a).

5. A true and correct copy of the original Complaint is attached to this Notice as Exhibit A.

6. Removal is proper pursuant to 28 U.S.C. §§ 1332 and 1441(a) because the action is one over which this Court has original jurisdiction, as it is between citizens of different states, as defined in 28 U.S.C. § 1332(a)(1), and the alleged matter in controversy exceeds the sum of \$75,000.

7. Plaintiff Jason Lewis is an individual domiciled in Montana.

8. Old Republic Ins. Co. is a corporation organized under the laws of Pennsylvania with its principal place of business in Pennsylvania.

9. Sedgwick is a corporation organized under the laws of Illinois with its principal place of business in Tennessee.

10. The amount in controversy meets the jurisdictional threshold. Under 9th Circuit precedent, a defendant's notice of removal “need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.” *See Acad. of Country Music v. Cont'l Cas. Co.*, 991 F.3d 1059, 1068 (9th Cir. 2021).

- a. Lewis is asserting claims for violations of Montana’s Unfair Trade Practices Act and common law bad faith in connection with Defendants’ handling of his workers’ compensation claim. (*See* Exhibit A, pp. 4-5.)
- b. Lewis is seeking compensatory damages, including emotional distress and financial losses, attorney fees, and punitive damages. Though Lewis’ complaint does not quantify his alleged compensatory damages, he alleges Defendants erred by failing to advance temporary disability benefits during the administration of his claim and by only offering \$15,000 to settle his indemnity claim before eventually settling it for \$55,000. (Exhibit A, ¶¶ 21-22.) Therefore, the amount of compensatory damages in controversy is potentially in excess of \$55,000.
- c. In addition, this District has previously found it reasonable to add \$50,000 in potential attorney fees plus a potential 4/1 punitive damages to compensatory damages ratio (i.e. \$55,000 x 4) in insurance bad faith cases when calculating the “amount in controversy.” *See Drange v. Mt. West*

Farm Bureau Mut. Ins. Co., 2021 U.S. Dist. LEXIS 78623. Therefore, the total amount in controversy exceeds \$75,000.

d. Moreover, Plaintiff has indicated, through his counsel, that the amount in controversy exceeds \$75,000.

11. For purposes of removal, venue is proper in this district and division under 28 U.S.C. § 1441(a) because the removed action has been pending in this district and division.

12. By filing this Notice of Removal, Sedgwick is not waiving any defense which may be available to it and does not concede that Lewis has stated claims upon which relief may be granted.

13. Sedgwick will file its Answer within seven days of this Notice of Removal, pursuant to Fed. R. Civ. P. 81(c)(2)(C).

14. No hearings or other proceedings have been set in this action.

15. Pursuant to 28 U.S.C. § 1446(d) and Local Federal Rule 3.3, a copy of this Notice of Removal will be filed promptly with the Clerk of Court for the Fourth Judicial District Court, Missoula County, State of Montana, in which this action has been pending, and written notice thereof will be promptly provided to counsel for all adverse parties.

DATED this 20th day of June, 2023.

MOULTON BELLINGHAM PC

By /s/ Gerry Fagan
Gerry Fagan
Adam J. Tunning
27 North 27th Street, Suite 1900
P. O. Box 2559
Billings, Montana 59103-2559

Attorneys for Sedgwick Claims
Management Services, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly served upon the following via U.S. mail on this 20th day of June, 2023.

J. Ben Everett
Everett Cook Law
217 East Park Avenue
P O Box 969
Anaconda, MT 59711

/s/ Gerry Fagan
Gerry Fagan
Adam J. Tunning